

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Bachman's, Inc.,

Court File No. 27-CV-20-14327

CASE TYPE: CONTRACT

Judge Patrick D. Robben

Plaintiff,

vs.

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

Florists' Mutual Insurance Company,

Defendant.

TO: District Court Administrator of the Fourth Judicial District, County of Hennepin, State of Minnesota, the Honorable Patrick D. Robben, and Plaintiff above-named and its counsel of record:

PLEASE TAKE NOTICE THAT, on November 27, 2020, Defendant Florists' Mutual Insurance Company in the above-entitled action originally pending in the District Court for the County of Hennepin, State of Minnesota, Fourth Judicial District, filed in the Office of the Clerk of the United States District Court for the District of Minnesota a Notice of Removal to the United States District Court pursuant to 28 U.S.C. §§ 1441, 1446, and 1332, a copy of which is attached hereto as "Exhibit A."

With this filing, this action now stands removed from the District Court for the County of Hennepin, State of Minnesota, Fourth Judicial District, to the United States District Court for the District of Minnesota. Defendant respectfully requests that the District Court Administrator of this Court effectuate transfer of all necessary documents to the Clerk for the United States District Court for the District of Minnesota and that no further proceedings take place before this Honorable Court unless and until this action is subject to remand.

Respectfully submitted,

O'MEARA, LEER, WAGNER & KOHL, P.A.

Dated: November 27, 2020.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Bachman's, Inc.,

Plaintiff,

vs.

Florists' Mutual Insurance Company,

Defendant.

Civil File No. 20-CV-_____(____/____)

**DEFENDANT'S NOTICE OF
REMOVAL**

Defendant Florists' Mutual Insurance Company ("Florists' Mutual") hereby removes this action from the District Court for the County of Hennepin, State of Minnesota, Fourth Judicial District to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. §§ 1441 and 1446, and as grounds for its removal states as follows:

Statement of the Case

1. On November 6, 2020, Plaintiff Bachman's, Inc. ("Bachman's") commenced this action against Florists' Mutual, styled *Bachman's, Inc v. Florists' Mutual Insurance Co.*, in the District Court for the County of Hennepin, State of Minnesota, Fourth Judicial District, by serving Florists' Mutual with a copy of a Summons and Complaint (the "State Court Action"). (Declaration of Tom Richey, ¶ 2, Ex. A (Complaint).)

2. On November 10, 2020, Bachman's filed the State Court Action in Hennepin County District Court where it was assigned Case No. 27-CV-20-14327.

3. Florists' Mutual has not yet served an Answer to or moved to dismiss the Complaint.

Background and Allegations

4. Florists' Mutual is an insurance company specializing in providing business insurance coverage and risk management to horticultural and floral operations, among others. (Richey Decl. ¶ 3.)

5. Bachman's purchased a business insurance policy ("Policy") from Florists' Mutual, which Florists' Mutual issued on February 1, 2020. (Richey Decl. ¶4.)

6. Bachman's Complaint alleges that, as a result of COVID-19, it "was forced to close its retail stores and limit its wholesale operations" in "springtime 2020." (Richey Decl., Ex. A at ¶ 5.) It further alleges that Florists' Mutual denied coverage under the Policy for Bachman's alleged losses. (*Id.* at ¶ 7.) Bachman's asserts two causes of actions arising from Florists' Mutual's interpretation of the Policy and decision not to provide coverage: breach of contract and a declaration of rights. (*Id.*)

Diversity Jurisdiction Under 28 U.S.C. § 1332(a)

7. This Court has jurisdiction over this matter under 28. U.S.C. § 1332(a) because there is complete diversity of citizenship between Bachman's and Florists' Mutual and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

8. On information and belief, Bachman's a citizen of the State of Minnesota in that it is a corporation organized and existing under the laws of the State of Minnesota with its principal place of business in Minneapolis, Minnesota, because it alleges that it is

“domiciled in Minnesota and headquartered in Minneapolis, [Minnesota].” (Richey Decl., Ex. A at ¶ 1.)

9. Florists’ Mutual is a citizen of the State of Illinois in that it is a mutual insurance company organized and existing under the laws of the Illinois with its principal place of business in Illinois. (Richey Decl. ¶ 5.)

10. Based on the facts alleged in the Complaint as well as Bachman’s pre-suit representations, without agreeing that they are true or that Florists’ Mutual is entitled to any damages or a declaration of coverage, Bachman’s believes in good faith that the amount in controversy in this action exceeds \$75,000, exclusive of interests and costs. (See Richey Decl. ¶ 6, Ex. B (Letter from Susan Bachman West, President of Bachman’s, to Florists’ Mutual (claiming that Bachman’s “incurred loss is in the approximate range of \$1.75 million, plus extra expenses”))).

All Procedural Requirements for Removal Have Been Satisfied

11. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, and orders from the State Court Action which have been served on Florists’ Mutual are being filed as Exhibit A to the Declaration of Tom Richey.

12. This Notice of Removal has been filed within 30 days of November 6, 2020, the date that Florists’ Mutual was served with the Summons and Complaint in this matter. (Richey Decl. ¶ 2.) Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

13. The United States District Court for the District of Minnesota is the District Court for the district embracing the entire State of Minnesota, including Hennepin County where this action is currently pending. *See* 28 U.S.C. § 103. Venue is therefore proper in this district pursuant to 28 U.S.C. § 1441(a).

14. Promptly after filing of this Notice of Removal, Florists' Mutual will cause a copy thereof to be filed with the State Court and cause written notice of this Notice of Removal to be served on Bachman's.

15. Defendant has paid the required filing fee and is filing a Civil Cover Sheet simultaneously herewith.

16. Florists' Mutual has a good and sufficient defense to this action.

17. By filing this Notice of Removal, Florists' Mutual does not waive any defenses that may be available to it in the State Court Action, and expressly denies any coverage or liability for any damages alleged by Bachman's.

18. For these reasons, this action may be removed to this Court under 28 USC § 1446(a).

WHEREFORE, Defendant Florists' Mutual Insurance Company respectfully removes the State Court Action into the United States District Court for District of Minnesota.

Respectfully submitted,

O'MEARA, LEER, WAGNER & KOHL, P.A.

Dated: November 27, 2020.

By: s/ Dale O. Thornsjo

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